

REMARKS

Claims 1-28 are pending in the present application. Claims 1, 18 and 28 have been amended. No new matter has been added.

Submitted herewith is a replacement drawing sheet amending Figures 4A and 4B. Line 42 of Figures 4A and 4B has been made heavier and the lead lines have been more precisely located. No new matter has been added.

The Examiner rejected claims 1-28 under 35 U.S.C. § 112, first paragraph and alleged the limitations of “facing away from the substrate,” “facing *about* from the substrate” (the word “about” was in error and should have also been *away*), and “facing away from the sidewalls of the trench” were not supported in the original specification and were considered new matter limitations. Applicant respectfully but strongly disagrees and suggests that the Examiner’s refusal to consider the claim limitations was improper, as was the finality of the rejection.

Even though the exact phraseology of the claim limitation is not in the specification, the concept represented by the claim phraseology is most certainly clearly in the specification. Applicant submits that there is no requirement whatsoever that the specification must contain the actual phraseology used in a claim. It is further respectfully submitted that the original paragraph [0029] clearly discloses the claimed concept, and when paragraph [0029] is considered along with Figures 4A and 4B, Applicant is at a loss to understand how the Examiner could have reasonably alleged that the claim language was not supported and rejected the claims under 35 U.S.C. § 112, first paragraph.

In any event, to even more positively illustrate the claim language, Figures 4A and 4B have been clarified by increasing the thickness of the line in the figures representing the vertical silicon layer 420. In addition, the lead lines to the reference numbers have been more precisely located to identify the elements of the figures.

Claims 1-28 were objected to because the Examiner considered the limitations added by the December 11, 2007 Amendment to be confusing. The language is completely clear to Applicant, but to facilitate the prosecution of the case, Applicant has further clarified the claim language. Also, in the objection, the Examiner asked whether Applicant meant "that the silicon layer having an exposed surface that extends from the top to the bottom of the trench." Applicant believes the claim language would certainly include a structure described by the Examiner, but would not be limited to such a structure. For example, it is not necessary that the silicon layer extend from the bottom of the trench all the way to the top of the trench (see paragraph [0029], lines 5-8 of the specification).

All of the claims were rejected under 35 U.S.C. § 102(e) or 35 U.S.C. § 103(a) over Lee alone or over Lee in combination with one or more of Chung, et al. and Cheong. However, it is very clear that neither Lee nor the secondary references even disclose, much less teach, the claims as amended. More specifically, none of the references, whether considered singly or in combination, disclose forming a layer of silicon on the walls of the trench, *without filling the trench*, such that an exposed surface of the silicon layer faces away from the trench walls in the substrate that defines the trench.

Therefore, it is respectfully submitted that none of the claims contain new matter or are indefinite and all of the claims do now patentably define over all of the references of record and are allowable.

In view of the above, Applicant respectfully submits that this response complies with 37 C.F.R. § 1.116. Applicant further submits that the claims are in condition for allowance. No new matter has been added by this amendment. If the Examiner should have any questions, please contact Applicant's attorney at the number listed below. The Commissioner is hereby authorized to charge any fees that are due, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

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Date

James C. Kesterson
James C. Kesterson
Reg. No. 25,882
Attorney for Applicant

SLATER & MATSIL, L.L.P.
17950 Preston Rd., Suite 1000
Dallas, TX 75252
Tel: 972-732-1001
Fax: 972-732-9218